

**Supporting Statement for Recordkeeping, Reporting, and Disclosure Requirements
in Connection with Regulation BB (Community Reinvestment Act)
(Reg BB; OMB No. 7100-0197)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to revise, without extension, the mandatory Recordkeeping, Reporting, and Disclosure Requirements In connection with Regulation BB (Community Reinvestment Act). The Board is required to renew these requirements every three years pursuant to the Paperwork Reduction Act of 1995 (PRA), which classifies regulations such as Regulation BB as “required information collections.”¹ The federal banking agencies (agencies)² published, in the *Federal Register*, a joint proposed rulemaking (March 2005 proposal) for public comment on March 11, 2005.³ The comment period ended on May 10, 2005.

The agencies issued the March 2005 proposal in order to revise certain provisions of the rules implementing the Community Reinvestment Act (CRA). This action was taken in response to public comments received by the federal banking agencies and the OTS on a February 2004 interagency CRA proposal and by the FDIC on its August 2004 CRA proposal. The March 2005 proposal addressed regulatory burden imposed on some smaller banks by revising the eligibility requirements for CRA evaluation under the lending, investment, and service tests. Specifically, the March 2005 proposal provided a simplified lending test and a flexible new community development test for small banks with an asset size between \$250 million and \$1 billion. Holding company affiliation would not be a factor in determining which CRA evaluation standards applied to a bank. In addition, the March 2005 proposal would revise the term “community development” to include certain community development activities, including affordable housing, in underserved rural areas and designated disaster areas.

The Board administers Regulation BB as to the 914 state member banks (SMBs) under its supervision. The proposed estimated annual burden is 131,662, a decrease of 26,878 hours.

CRA and Regulation BB encourage financial institutions to help meet the credit needs of their entire communities, consistent with safe and sound banking practices. All state member banks must delineate an assessment area(s) and larger banks must provide a

¹ 44 U.S.C. 3501 et seq.

² The Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation (FDIC) are responsible for implementing the Community Reinvestment Act, and each has adopted a substantially parallel regulation for institutions under its jurisdiction. The Office of Thrift Supervision (OTS) also has a parallel regulation; however, the OTS was not part of this rulemaking.

³ The collection of information under Regulation BB is assigned OMB No. 7100-0197 for the purpose of the PRA.

list of the geographies within this area(s) to the Federal Reserve. All SMBs must keep a public file of required information. The public file requirements are slightly different for small banks or banks that were small banks during the prior calendar year and large banks.⁴ All SMBs must display a public notice in the lobby of the main office and each branch informing consumers about the availability of certain CRA information. Large banks must maintain data on small business and small farm loans; intermediate small and small banks may elect to maintain information on those loans. Large banks must report aggregated data on small business and small farm loans and on community development loans. All SMBs required to report Home Mortgage Disclosure Act (HMDA) loan data must maintain information on those loans, and large banks must identify property location by census tract for all metropolitan statistical areas (MSAs)⁵ as well as for property outside MSAs. Any bank may elect to collect and maintain records on consumer loans and other loan data for consideration under the lending test. Also, any bank may collect, maintain, and report data on lending by affiliates or a consortium/third party with which it is involved. A bank that wishes to be evaluated under its own strategic plan must submit that plan to the Federal Reserve and must operate under it for at least one year before being evaluated under it. A bank that wishes to be designated as a wholesale or limited purpose bank must make that request in writing. SMBs required to submit data to the Federal Reserve must do so in an electronic format that complies with the Federal Financial Institutions Examination Council (FFIEC) file specifications.

From the data submitted by each SMB the FFIEC prepares an annual CRA disclosure statement for such SMB that contains information on small business and small farm loans on a state-by-state basis, as well as information about the bank's community development lending. The agencies prepare annually for each MSA (including an MSA that crosses a state boundary) and the non-MSA portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting requirements under the agencies' CRA regulations. The Federal Reserve makes the aggregate disclosure statements and the individual SMB statements available to the public at central data depositories and publishes a list of the depositories at which statements are available. The FFIEC also makes both the aggregate disclosure statements and individual statements available on the FFIEC CRA web site.

Background and Justification

In July 1993, President Clinton requested that the federal financial regulatory agencies reform the CRA regulatory system to develop new regulations and examination procedures that provide more objective, performance-based assessment standards. In

⁴ Regulation BB defines a small bank as one that "as of December 31 of either of the prior two calendar years, had assets of less than \$1 billion." The regulation defines an intermediate small bank as "a small bank with assets of at least \$250 million as of December 31 of both of the prior two calendar years and less than \$1 billion as of December 31 of either of the prior two calendar years." For the purpose of this proposal large banks are defined as SMBs other than small banks or intermediate small banks, as defined in footnote one, or banks that were small banks during the prior calendar year.

⁵ A MSA or a Primary Metropolitan Statistical Area is defined by the director of OMB.

April 1995, the agencies adopted substantially parallel regulatory amendments that seek to reduce unnecessary compliance burden, promote consistency in assessments, and encourage improved performance. Data collection requirements became effective January 1, 1996. Reporting requirements became effective January 1, 1997.

In a performance-based CRA evaluation, data collection is necessary to allow the Federal Reserve to examine and assess SMBs' CRA records and to prepare the public sections of CRA performance evaluations. The Federal Reserve evaluates the efforts of SMBs in helping to meet the credit needs of their communities, including low- and moderate-income areas, as required by the Act. The information also is used to evaluate certain applications, such as those relating to mergers and acquisitions. Under the regulation, each SMB will be examined and rated "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" for the applicable test(s). Small banks and intermediate small banks are required to comply with certain recordkeeping and disclosure requirements but are exempt from reporting requirements. The Federal Reserve has no other information collection that supplies these data.

Description of Information Collection

The current recordkeeping, reporting, and disclosure requirements associated with Regulation BB are summarized in attachment 1 and described below. The revisions to the regulation are summarized beginning on page 7. A SMB that qualifies for evaluation under the small bank performance standards but elects evaluation under the lending, investment, and service tests will collect, maintain, and report the data required for large banks.

Current Regulation BB Requirements

Assessment area delineation

Each SMB must delineate one or more assessment areas within which the Federal Reserve evaluates the bank's record of helping to meet the credit needs of its community. All SMBs must maintain a list of the geographies⁶ in each assessment area. Large banks must also report the list of geographies to the Federal Reserve by March 1 each year. The assessment area(s) consists generally of one or more MSAs or one or more contiguous political subdivisions, such as counties, cities, or towns. The assessment area(s) includes the geographies in which the bank has its main office, branches, and deposit-taking automated teller machines (ATMs), as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans. Each bank's assessment area(s):

- must consist only of whole geographies;
- may not reflect illegal discrimination;

⁶ A census tract or a block numbering area delineated by the United States Bureau of the Census in the most recent decennial census.

- may not arbitrarily exclude low- or moderate-income geographies, taking into account the bank's size and financial condition; and
- may not extend substantially beyond a consolidated metropolitan statistical area (CMSA) boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a bank serves a geographic area that extends substantially beyond a state boundary, the bank must delineate separate assessment areas for the geographies in each state. If a bank serves a geographic area that extends substantially beyond a CMSA boundary, the bank must delineate separate assessment areas for the areas inside and outside the CMSA.

A SMB may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

Public file

All SMBs are required to maintain and make available to the public a file containing comments received from the public for the current year and each of the prior two calendar years, and any response to the comments from the bank. The file also must contain a copy of the public section of the SMB's most recent CRA performance evaluation prepared by the Federal Reserve, a list of the bank's open branches with addresses and geographies, a list of branches opened or closed during the current year and each of the prior two calendar years, a list of the services generally offered by the bank, and a map of each assessment area. The bank may include in the file any other information it chooses.

Large banks must also include in the public file the CRA Disclosure Statement prepared by the Federal Reserve for each of the prior two calendar years and, if applicable, information about consumer loan data. SMBs required to report HMDA data must include in the public file a copy of the HMDA Disclosure Statement prepared by the FFIEC for each of the prior two calendar years.

A small bank or intermediate small bank must include in the public file the bank's loan-to-deposit ratio for each quarter of the prior calendar year and, if it elects to be evaluated under the lending, service, and investment tests, the information required under the disclosure rules applicable to large banks. A SMB that has, in accordance with Regulation BB, submitted and been approved by the Federal Reserve for assessment under a strategic plan (see "Strategic Plan", below) must include a copy of the plan in the public file. A SMB that received a less than satisfactory rating during its most recent examination must include in the public file a description of current efforts to improve its CRA performance.

Public notice by banks

A SMB must provide in the public lobby of its main office and in each branch a prescribed notice informing consumers of their rights to certain information about the SMB's operations and CRA performance as evaluated by the Federal Reserve.

Small business and small farm loan register

A large bank is required to collect and maintain in machine-readable form until the completion of its next CRA examination the following data for each small business or small farm loan originated or purchased:

- a unique number or alpha-numeric symbol used to identify the relevant loan file;
- the loan amount at origination;
- the loan location; and
- an indicator whether the loan was made to a business or farm with gross annual revenues of \$1 million or less.

Small business and small farm loan data

A large bank is required to report annually by March 1 to the Federal Reserve in machine-readable form the following data for the preceding calendar year. For each geography in which the SMB originated or purchased a small business or small farm loan, it must report the aggregate number and amount of loans:

- of \$100,000 or less at origination;
- of more than \$100,000 at origination but less than or equal to \$250,000 at origination;
- of more than \$250,000 at origination; and
- to businesses and farms with gross annual revenues of \$1 million or less (using the revenues that the bank considered in making its credit decision).

Community development loan data

A large bank is required to report annually by March 1 to the Federal Reserve in machine-readable form the aggregate number and aggregate amount of community development loans originated or purchased in the preceding calendar year.

Home mortgage loan data

A large bank that is subject to reporting under Regulation C (12 CFR Part 203), is required to report annually by March 1 to the Federal Reserve in machine-readable form the property location for each home mortgage loan application, origination, or purchase outside the MSAs in which the SMB has a home or branch office (or outside any MSA). The Board of Governor's amended Regulation C to conform this rule; the paperwork

burden for providing property location information for loans inside an MSA is associated with the HMDA Loan/Application Register (FR HMDA-LAR; OMB No. 7100-0247).

Consumer loan data

A SMB has the option to collect and maintain, in machine-readable form, data for consumer loans originated or purchased by the bank for consideration under the lending test. A SMB may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home-equity, other secured, and other unsecured. If the SMB maintains data for loans in a certain category, it must maintain data for all loans originated or purchased within that category. The SMB must maintain data separately for each category and must include for each loan:

- a unique number or alpha-numeric symbol used to identify the relevant loan file;
- the loan amount at origination or purchase;
- the loan location; and
- the gross annual income of the borrower that the SMB considered in making its credit decision.

Other loan data

At its option, a SMB may provide other information concerning its lending performance, including additional loan-distribution data.

Affiliate lending data

A SMB that elects to have the Federal Reserve consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, must collect, maintain, and report for those loans the data that the SMB would have collected, maintained, and reported had the loans been originated or purchased by the SMB. For home mortgage loans, the bank must also be prepared to identify the home mortgage loans reported under Regulation C by the affiliate.

Data on lending by a consortium or a third party

A SMB may elect to have the Federal Reserve consider community development loans made by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan. If so, the SMB must report for those loans the data that the bank would have reported had the loans been originated or purchased by the SMB itself.

Strategic plan

A SMB may elect to be assessed under a strategic plan if the SMB has submitted the plan to the Federal Reserve, the Federal Reserve has approved the plan; the plan is in effect, and the SMB has been operating under an approved plan for at least one year. The

Federal Reserve's approval of this plan does not affect the SMB's obligation, if any, to comply with the data collecting and reporting requirements (12 CFR 228.42). The plan may have a term of no more than five years; multi-year plans must include annual interim measurable goals. Before submitting a plan to the Federal Reserve, a SMB must seek suggestions from members of the public in its assessment area(s), formally solicit public comment for at least thirty days, and during the period of formal public comment make copies of the plan available for public review at its offices at no cost, and by mail for a reasonable cost.

A strategic plan must include measurable goals for helping meet the credit needs of each assessment area covered by the plan, addressing the lending, investment and service tests. A plan must specify goals that constitute satisfactory performance and also may specify goals that constitute outstanding performance. If an institution fails to meet its own goals for satisfactory performance, a SMB may elect in its plan to be evaluated under the alternate test(s) specified in the regulation.

Request for designation as a wholesale or limited purpose bank

The Federal Reserve evaluates the performance of a wholesale or limited purpose bank under the community development test specified in the regulation. A SMB wishing to be designated as a wholesale or limited purpose bank must file a request, in writing, with the Federal Reserve, at least three months prior to the proposed effective date of the designation.

Summary of Revisions to Regulation BB

The final rule raises the small bank asset size threshold to assets of less than \$1 billion without regard to holding company affiliation. Accordingly, the new rule reduces data collection and reporting burden for intermediate small banks (banks with assets between \$250 million and less than \$1 billion) and, at the same time, encourages meaningful community development lending, investment, and services by these banks. Intermediate small banks will no longer need to collect and report CRA loan data. Nevertheless, examiners will continue to evaluate bank lending activity in the CRA examinations of intermediate small banks and disclose results in the public evaluation. They will be evaluated under two separately rated tests: the small bank lending test; and a flexible new community development test that includes an evaluation of community development loans, investments, and services in light of community needs and the capacity of the bank. Satisfactory ratings are required on both tests to obtain an overall satisfactory CRA rating.

In addition, for banks of any size the new rules expand the definition of community development to include activities that revitalize or stabilize designated disaster areas and distressed or underserved rural areas. By including designated distressed or underserved rural areas, the agencies intend to recognize and encourage community development in

more rural areas.² The regulation also clarifies when discrimination or other illegal credit practices by a bank or its affiliate will adversely affect an evaluation of the bank's CRA performance.

The rule takes effect on September 1, 2005. Interim CRA examination procedures for intermediate small banks will be in place by August 1, 2005.

Time Schedule for Information Collection and Publication

The recordkeeping, reporting, and disclosure requirements pursuant to Regulation BB are mandatory. SMBs that are required to collect assessment area information, small business and small farm data, community development data, and home mortgage loan data must collect and report the data to the Federal Reserve in machine-readable form annually by March 1 for the prior calendar year.

In a performance-based CRA evaluation, the Federal Reserve uses the data to examine and assess SMBs' CRA records, to help evaluate applications for specified transactions such as acquisitions, and to prepare the public sections of CRA performance evaluations. From the data submitted, the Federal Reserve prepares annually for each SMB a CRA disclosure statement that contains, on a state-by-state basis, information on small business and small farm loans and community development lending.

Together with the other agencies, the Federal Reserve prepares annually for each MSA (including an MSA that crosses a state boundary) and for each non-MSA portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting requirements under each agency's CRA regulation. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the Federal Reserve may adjust the form of the disclosure if necessary to protect the privacy of a borrower or the competitive position of an institution. The Federal Reserve makes the aggregate disclosure statements and the individual SMB statements available to the public at central data depositories and publishes a list of the depositories at which statements are available. The FFIEC also makes both statements available on the FFIEC CRA web site (www.ffiec.gov/cra). The statements are usually available at the SMBs, central data depositories, and on the FFIEC web site in mid-July after the March 1 reporting date.

Any SMB electing to submit a strategic plan to the Federal Reserve must do so at least three months prior to the proposed effective date of the plan. The Federal Reserve will act upon the plan within sixty days. If the Federal Reserve fails to act within this time, the plan shall be deemed approved unless the Federal Reserve extends the review period for good cause. As indicated above, a SMB may not be evaluated under a strategic plan unless it has been operating under an approved plan for at least one year.

² Designated distressed or underserved rural areas are to be listed by the agencies on the FFIEC website, www.ffiec.gov/cra.

Legal Status

The Board's Legal Division has determined that the recordkeeping, reporting, and disclosure requirements associated with Regulation BB are authorized by the Federal Reserve Act (12 U.S.C. §§ 248 (1)) and the Community Reinvestment Act (12 U.S.C. 2905 et seq.) and are mandatory to evidence compliance. Generally, the data that are reported to the Federal Reserve are not considered confidential.

The CRA regulation is supported by the Federal Reserve's existing authority regarding general examination and rulemaking and other incidental powers. In addition, the CRA authorizes the agency to issue a regulation to further the CRA's purposes. The collection and reporting requirements established by Regulation BB are appropriate, as they allow the Federal Reserve to respond in a reasonable manner to the CRA's statutory directives regarding assessment, evaluation, and reporting. The Federal Reserve has limited the recordkeeping required to that necessary to permit the Federal Reserve to fulfill its statutory obligations.

Consultation Outside the Agency

In response to public comments received on two proposed rulemakings published in 2004, the agencies then published the March 2005 proposal for public comment on March 11, 2005. The comment period ended on May 10, 2005. After reviewing the comments received, the final rulemaking was published on August 2, 2005.

Estimate of Respondent Burden

Based on the revisions to Regulation BB, the Federal Reserve estimates that the paperwork burden for SMBs associated with complying with CRA is approximately 131,662 hours a decrease of 26,878 hours, as presented in the following tables. This represents 2.6 percent of total Federal Reserve System burden for all reports.

The burden estimates for reporting requirements related to loan data, other than community development loan data, include time estimates for geocoding easy- and hard-to-find loan geographies. The reporting burden estimate for the assessment area delineation is for large banks only. The disclosure burden for the public file includes estimates for both the large and small bank requirements. The public file requirement also includes an estimate for intermediate small and small bank assessment area delineation.

The optional recordkeeping burden estimates for consumer loan data and other loan data include the assumption that approximately 34 percent and 5 percent, respectively, of respondents/recordkeepers will keep this data.

The number of respondents for all non-optional recordkeeping and reporting requirements are based on the current number of large SMBs regulated by the Federal Reserve, as defined by Regulation BB. The number of respondents for the non-optional

recordkeeping requirement is based on the current number of SMBs with assets of \$250 million or more that are regulated by the Federal Reserve, as defined by Regulation BB. The numbers of respondents for all optional reporting requirements are based on preliminary 2004 data reported March 1, 2005.

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Current Burden Estimate				
<i>Recordkeeping Requirement</i>				
Small business and small farm loan register	241	1	219	52,779
<i>Optional Recordkeeping Requirements</i>				
Consumer loan data	82	1	326	26,732
Other loan data	12	1	25	300
<i>Reporting Requirements</i>				
Assessment area delineation	241	1	2	482
Small business and small farm loan data	241	1	8	1,928
Community development loan data	241	1	13	3,133
HMDA out of MSA loan data	241	1	253	60,973
<i>Optional Reporting Requirements</i>				
Data on lending by a consortium or third party	11	1	17	187
Affiliate lending data	32	1	38	1,216
Strategic plan	6	1	275	1,650
Request for designation as a wholesale or limited purpose bank	5	1	4	20
<i>Disclosure Requirement</i>				
Public file	914	1	10	9,140
<i>Total</i>				158,540

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Proposed Burden Estimate				
<i>Recordkeeping Requirement</i>				
Small business and small farm loan register	295	1	219	64,605
<i>Optional Recordkeeping Requirements</i>				
Consumer loan data	100	1	326	32,600
Other loan data	15	1	25	375
<i>Reporting Requirements</i>				
Assessment area delineation	83	1	2	166
Small business and small farm loan data	83	1	8	664
Community development loan data	83	1	13	1,079
HMDA out of MSA loan data	83	1	253	20,999
<i>Optional Reporting Requirements</i>				
Data on lending by a consortium or third party	8	1	17	136
Affiliate lending data	6	1	38	228
Strategic plan	6	1	275	1,650
Request for designation as a wholesale or limited purpose bank	5	1	4	20
<i>Disclosure Requirement</i>				
Public file	914	1	10	9,140
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<i>Total</i>				131,662
<i>Difference</i>				(26,878)

Based on an hourly cost of \$20, the proposed annual cost to the public is estimated to be \$2,633,240.

Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

Estimate of Cost to the Federal Reserve System

Since no information is submitted to Federal Reserve Banks, their costs are negligible. The Board staff processes data for all of the FFIEC agencies. The agencies' 2004 annual cost was budgeted to be \$855,400.